UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1993/33
12 July 1993

ENGLISH
Original: ENGLISH/FRENCH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fifth session
Item 16 (b) of the provisional agenda

PROMOTION, PROTECTION AND RESTORATION OF HUMAN RIGHTS AT NATIONAL, REGIONAL AND INTERNATIONAL LEVELS

PREVENTION OF DISCRIMINATION AND PROTECTION OF WOMEN

Note by the Secretary-General prepared pursuant to Sub-Commission resolution 1992/4

1. The Sub-Commission on Prevention of Discrimination and Protection of Minorities, in its resolution 1992/4 of 14 August 1992 entitled "Discrimination against women", recommended, inter alia, that information on the equality and empowerment of women, and their access to equality in education, work, health and literacy, be included in States' reports to all human rights monitoring bodies and not only to the Committee on the Elimination of Discrimination against Women; the Sub-Commission also requested the Secretary-General to report on the implementation of resolution 1992/4 to the Sub-Commission at its forty-fifth session.

2. In compliance with the above request, the Secretary-General, on 14 December 1992, addressed a note verbale to States and a letter to the Committee on the Elimination of Discrimination against Women, the Committee on the Elimination of Racial Discrimination, the Committee on Economic, Social and Cultural Rights, the Human Rights Committee, the Committee on the Rights of the Child, the Committee against Torture and the Commission for Social Development.

3. As of 1 June 1993, only the Republic of Senegal, through a letter dated 17 March 1993, had replied to the above-mentioned note verbale. The Ministry of Justice of Senegal provided the following information:

"The Republic of Senegal is a party to 26 international instruments relating to human rights, 4 of which are concerned exclusively with discrimination against women. Equality between men and women has its source in the Constitution itself, which devotes 2 of its provisions to this issue.

Thus, according to article 1, 'The Republic of Senegal shall be secular, democratic and social. It shall guarantee equality before the law for all citizens without distinction as to origin, race, sex, or religion. It shall respect all faiths.' Article 7 provides that 'All human beings shall be equal before the law. Men and women shall have equal rights. In Senegal there shall be no subject or privileged status based on place, birth, person or family.' The protection of this right to equal treatment for men and women before the law is one of the main concerns of the Senegalese authorities which, on the basis of the above constitutional provisions, decided to take effective measures to develop national governmental policies designed to amend or abrogate any legislative provisions or regulations aimed at creating or perpetuating this equality between the sexes.

Thus, in 1960, order No. 60-14 of 3 September 1960 restored married women's rights from the viewpoint of the application of customary law. Throughout the entire colonial period, in family disputes the customary law applied was that for men and not that for women.

The legislation establishing the Code of Senegalese nationality provides that this component of the status of the individual may be conferred by men and women alike in their capacity as progenitor in the first degree born in Senegal.

The 1967 act on family ceremonies fixed the dowry of the woman which hitherto had consisted of a selling price.

The 1972 act establishing the Family Code laid down this egalitarian principle, by introducing requirements for marriage based on mutual consent, equality in the administration of joint household property, the abolition of the humiliating practice for women of repudiation and its replacement by divorce by mutual consent, and finally the abolition of customary law in regulating marital disputes.

The 1976 act establishing the Electoral Code recognized Senegalese men and women old enough to vote and enjoying their civic rights as electors.

The 1977 act amending the Penal Code abrogated article 332 of that Code, which dealt with the offence of desertion exclusively by women of the matrimonial home and replaced it by the offence of desertion of the family by married men and women.

The powers extended to women in order to defend this right of equality also stem from the law which allows women who consider themselves to be victimized to refer the matter to the judicial authorities in order to apply for reparation for the injury sustained.

According to article 371 of the Family Code, women have full legal competency with the consequence that they may sue in a civil action without special permission from anyone. Article 2 of the Code of Criminal Procedure states that a civil action for damages inflicted as a result of an infringement of the law may be brought by anyone who has suffered personally as a result of the damages directly caused by the infringement.

The possibility for women to have access to equality in the spheres of education, employment, health and literacy is opened up by a large number of laws and regulations, a scrutiny of whose practical implementation in Senegal leads to the conclusion that the discrimination that affected women some time ago is tending to disappear.

Discrimination based on sex has no place in the Senegalese education and vocational training system. This principle is stated first in article 8 of the Constitution which provides that 'Everyone has the right to acquire an education without impediment at the sources accessible to all'. And article 16 stipulates that the State and State entities have an obligation to create the preconditions and institutions that guarantee the education of children. This principle was established by the first law on the planning of national education of 3 June 1971 and Act No. 91-22 of 16 February 1991 which abrogated and replaced it.

It should be borne in mind that the Republic of Senegal is a party to the ILO Employment Policy Convention (No. 122) and the Discrimination (Employment and Occupation) Convention (No. 111). It should also be noted that the right to work and to freely chosen employment is guaranteed by article 20 of the Constitution, which refers to the law for the protection of that right. The law is in fact the Labour Code, article 1 of which defines a worker as anyone, without distinction as to sex, who puts his strength at the disposal of another in exchange for payment. Article 8 of the Act establishing the general status of officials gives the same definition.

With regard to the opportunity for women to have access to equality in the sphere of employment, it should be stressed that the political measures concerning employment adopted by the Senegalese Government in conformity with the spirit of the World Programme drawn up by the ILO mainly concern guidance and vocational training, the free choice of employment, positive discrimination in order to protect or assist women workers (children and the elderly) either because of their sex (night work for women and children) or due to physical conditions (physically disabled persons) and equal pay for equal work. It should also be noted that the cases of exclusion from employment that can be observed at the present time in Senegal and which are based on considerations of sex relate to the ban on women engaging in purely military occupations (the army, the police force and fire service) with the exception of the police corps which is open to women.

There is also the deregulation of labour and the improved flexibility of labour market, as well as the revision of the Labour Code with the abolition of the National Labour Service's monopoly on

placement, as well as the successive revisions of the Investments Code and the Labour Code which on numerous occasions have made it possible to make adjustments on the labour market of Senegal.

In article 14, the Constitution of the Republic of Senegal recognizes that the family constitutes the natural and ethical basis of the human community, that it is placed under the protection of the State and that the State and local communities have a duty to protect its physical and moral health. Thus, the Constitution recognizes the right of every individual to enjoy better physical and mental health irrespective of his/her sex. Senegalese women are not excluded from this right, which is general and applicable to all who live in Senegal.

Finally, it should be noted that since June 1989 Senegal has adopted a health policy whose main features are:

An improvement in health coverage, particularly in rural and semi-urban areas;

An improvement in the health of mothers and children;

The development of prevention and education campaigns;

The rationalization of treatment;

The rationalization and development of human, material and financial resources;

The control of demographic variables."

4. In its resolution 1993/46 of 8 March 1993, entitled "Integrating the rights of women into the human rights mechanisms of the United Nations", the Commission on Human Rights, welcoming the reaffirmation of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in its resolution 1992/4 of 14 August 1992, that the rights of women are recognized as inalienable human rights and that they should be treated as such in all United Nations bodies, including the Commission on Human Rights, requested that:

(a) All special rapporteurs and working groups of the Commission and the Sub-Commission, in the discharge of their mandates, regularly and systematically include in their reports available information on human rights violations affecting women;

(b) The Secretariat ensure that special rapporteurs, experts and working groups are fully apprised of the particular ways in which the rights of women are violated;

(c) The Secretary-General consult with all the United Nations human rights bodies, including the treaty bodies, on the implementation of the resolution, and invited him to report thereon to the General Assembly at its forty-eighth session and to the Commission at its fiftieth session.